

COMMITTEE ON GOVERNMENT

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1233

(Reference to Senate engrossed bill)

Strike everything after the enacting clause and insert:

"Section 1. Section 10-1806, Arizona Revised Statutes, is amended to read:

10-1806. Settlement of disputes; arbitration

The articles of incorporation may provide for arbitration of any deadlock or dispute involving the internal affairs of the corporation. To the extent the articles of incorporation do not provide to the contrary, such arbitration shall be governed by ~~the provisions of~~ title 12, chapter ~~9, article 1~~ 21. Unless otherwise provided in the articles of incorporation, if the arbitrators determine that such deadlock or dispute either impairs or threatens to impair the value of the assets or continued conduct of the business of the corporation, ~~then~~ the arbitrators may appoint a conservator or interim manager to preserve the business and assets of the corporation or to continue the operation of the business of the corporation, or both, during the pendency of such arbitration proceedings. If such arbitrators appoint a conservator or interim manager, the arbitrators may suspend, revoke or nullify the authority of any existing manager or managers. The articles of incorporation may also provide that the arbitrators may suspend, revoke or nullify the employment or any employment contract of any existing manager or managers without payment of compensation and without liability for damages or breach of contract. Unless provided otherwise in the articles of incorporation, the arbitrators may define the authority and set the compensation of the conservator or interim manager, and shall immediately file a certificate of the appointment of such conservator or interim manager with the commission. Such arbitration proceedings shall not supersede the power of the superior court of Arizona to appoint an interim manager under section 10-1814. A court appointed interim manager shall replace any

conservator or interim manager appointed under ~~the provisions of~~ this section.

Sec. 2. Delayed repeal

Title 12, chapter 9, article 1, Arizona Revised Statutes, is repealed from and after December 31, 2008.

Sec. 3. Section 12-2101.01, Arizona Revised Statutes, is amended to read:

12-2101.01. Appeals from arbitration awards

A. An appeal may be taken from ANY OF THE FOLLOWING:

1. An order denying an application to compel arbitration made under ~~the terms of~~ section ~~12-1502;~~ 12-3007.

2. An order granting an application to stay arbitration made under ~~the terms of subsection B of~~ section ~~12-1502;~~ 12-3007.

3. An order denying confirmation of an award. ~~;~~

4. An order modifying or correcting an award. ~~;~~

5. An order vacating an award without directing a rehearing. ~~;~~ ~~or~~

6. A judgment or decree entered pursuant to ~~the provisions of article 1,~~ chapter ~~9,~~ 21 of this title.

B. The appeal shall be taken in the manner and to the same extent as from orders or judgments in a civil action.

Sec. 4. Title 12, Arizona Revised Statutes, is amended by adding chapter 21, to read:

CHAPTER 21

REVISED UNIFORM ARBITRATION ACT

ARTICLE 1. GENERAL PROVISIONS

12-3001. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "ARBITRATION ORGANIZATION" MEANS AN ASSOCIATION, AGENCY, BOARD, COMMISSION OR OTHER ENTITY THAT IS NEUTRAL AND THAT INITIATES, SPONSORS OR ADMINISTERS AN ARBITRATION PROCEEDING OR IS INVOLVED IN THE APPOINTMENT OF AN ARBITRATOR.

1 2. "ARBITRATOR" MEANS AN INDIVIDUAL WHO IS APPOINTED TO RENDER AN
2 AWARD, ALONE OR WITH OTHERS, IN A CONTROVERSY THAT IS SUBJECT TO AN AGREEMENT
3 TO ARBITRATE.

4 3. "COURT" MEANS A COURT OF COMPETENT JURISDICTION IN THIS STATE.

5 4. "KNOWLEDGE" MEANS ACTUAL KNOWLEDGE.

6 5. "PERSON" MEANS AN INDIVIDUAL, CORPORATION, BUSINESS TRUST, ESTATE,
7 TRUST, PARTNERSHIP, LIMITED LIABILITY COMPANY, ASSOCIATION, JOINT VENTURE,
8 GOVERNMENT OR GOVERNMENTAL SUBDIVISION, AGENCY OR INSTRUMENTALITY OR PUBLIC
9 CORPORATION OR ANY OTHER LEGAL OR COMMERCIAL ENTITY.

10 6. "RECORD" MEANS INFORMATION THAT IS INSCRIBED ON A TANGIBLE MEDIUM
11 OR THAT IS STORED IN AN ELECTRONIC OR OTHER MEDIUM AND THAT IS RETRIEVABLE IN
12 PERCEIVABLE FORM.

13 12-3002. Notice

14 A. EXCEPT AS OTHERWISE PROVIDED IN THIS CHAPTER, A PERSON GIVES NOTICE
15 TO ANOTHER PERSON BY TAKING ACTION THAT IS REASONABLY NECESSARY TO INFORM THE
16 OTHER PERSON IN ORDINARY COURSE, WHETHER OR NOT THE OTHER PERSON ACQUIRES
17 KNOWLEDGE OF THE NOTICE.

18 B. A PERSON HAS NOTICE IF THE PERSON HAS KNOWLEDGE OF THE NOTICE OR
19 HAS RECEIVED NOTICE.

20 C. A PERSON RECEIVES NOTICE WHEN IT COMES TO THE PERSON'S ATTENTION OR
21 THE NOTICE IS DELIVERED AT THE PERSON'S PLACE OF RESIDENCE OR PLACE OF
22 BUSINESS OR AT ANOTHER LOCATION HELD OUT BY THE PERSON AS A PLACE OF DELIVERY
23 OF SUCH COMMUNICATIONS.

24 12-3003. Applicability

25 A. THIS CHAPTER GOVERNS AN AGREEMENT TO ARBITRATE MADE ON OR AFTER
26 JANUARY 1, 2009.

27 B. THIS CHAPTER GOVERNS AN AGREEMENT TO ARBITRATE MADE BEFORE JANUARY
28 1, 2009 IF ALL THE PARTIES TO THE AGREEMENT OR TO THE ARBITRATION PROCEEDING
29 SO AGREE IN A RECORD.

30 C. ON OR AFTER JANUARY 1, 2009, THIS CHAPTER GOVERNS AN AGREEMENT TO
31 ARBITRATE WHENEVER MADE.

32 D. THIS CHAPTER SHALL NOT APPLY TO ANY OF THE FOLLOWING:

1 1. AN ARBITRATION AGREEMENT BETWEEN AN EMPLOYER AND EMPLOYEE OR THEIR
2 RESPECTIVE REPRESENTATIVES.

3 2. A CONTRACT REGULATED UNDER TITLE 20.

4 3. A NATIONAL BANKING ASSOCIATION AND ANY AFFILIATE, SUBSIDIARY, OR
5 HOLDING COMPANY.

6 4. AN ARBITRATION CONDUCTED OR ADMINISTERED BY A SELF-REGULATORY
7 ORGANIZATION AS DEFINED IN THE SECURITIES EXCHANGE ACT OF 1934 (15 UNITED
8 STATES CODE SECTION 78c), THE COMMODITY EXCHANGE ACT (7 UNITED STATES CODE
9 CHAPTER 1) OR REGULATIONS ADOPTED UNDER THOSE ACTS.

10 12-3004. Effect of agreement to arbitrate; nonwaivable
11 provisions

12 A. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS B AND C OF THIS
13 SECTION, A PARTY TO AN AGREEMENT TO ARBITRATE OR TO AN ARBITRATION PROCEEDING
14 MAY WAIVE, OR THE PARTIES MAY VARY THE EFFECT OF, THE REQUIREMENTS OF THIS
15 CHAPTER TO THE EXTENT PERMITTED BY LAW.

16 B. BEFORE A CONTROVERSY ARISES THAT IS SUBJECT TO AN AGREEMENT TO
17 ARBITRATE, A PARTY TO THE AGREEMENT MAY NOT:

18 1. WAIVE OR AGREE TO VARY THE EFFECT OF THE REQUIREMENTS PRESCRIBED IN
19 SECTION 12-3005, SUBSECTION A, SECTION 12-3006, SUBSECTION A, SECTION
20 12-3008, SECTION 12-3017, SUBSECTION A OR B OR SECTION 12-3026.

21 2. AGREE TO UNREASONABLY RESTRICT THE RIGHT UNDER SECTION 12-3009 TO
22 NOTICE OF THE INITIATION OF AN ARBITRATION PROCEEDING.

23 3. AGREE TO UNREASONABLY RESTRICT THE RIGHT UNDER SECTION 12-3012 TO
24 DISCLOSURE OF ANY FACTS BY A NEUTRAL ARBITRATOR.

25 4. WAIVE THE RIGHT UNDER SECTION 12-3016 OF A PARTY TO AN AGREEMENT TO
26 ARBITRATE TO BE REPRESENTED BY A LAWYER AT ANY PROCEEDING OR HEARING UNDER
27 THIS CHAPTER, BUT AN EMPLOYER AND A LABOR ORGANIZATION MAY WAIVE THE RIGHT TO
28 REPRESENTATION BY A LAWYER IN A LABOR ARBITRATION.

29 C. A PARTY TO AN AGREEMENT TO ARBITRATE OR TO AN ARBITRATION
30 PROCEEDING MAY NOT WAIVE, OR THE PARTIES MAY NOT VARY THE EFFECT OF, THE
31 REQUIREMENTS OF THIS SECTION, SECTION 12-3003, SUBSECTION A OR C, SECTION
32 12-3007, 12-3014 OR 12-3018, SECTION 12-3020, SUBSECTION D OR E, SECTION

1 12-3022, 12-3023 OR 12-3024, SECTION 12-3025, SUBSECTION A OR B OR SECTION
2 12-3028 OR 12-3029.

3 12-3005. Application for judicial relief

4 A. AN APPLICATION FOR JUDICIAL RELIEF UNDER THIS CHAPTER MUST BE MADE
5 BY MOTION TO THE COURT AND HEARD IN THE MANNER PROVIDED BY LAW OR COURT RULE
6 FOR MAKING AND HEARING MOTIONS.

7 B. UNLESS A CIVIL ACTION INVOLVING THE AGREEMENT TO ARBITRATE IS
8 PENDING, NOTICE OF AN INITIAL MOTION TO THE COURT UNDER THIS CHAPTER MUST BE
9 SERVED IN THE MANNER PROVIDED BY LAW FOR THE SERVICE OF A SUMMONS IN A CIVIL
10 ACTION. OTHERWISE, NOTICE OF THE MOTION MUST BE GIVEN IN THE MANNER PROVIDED
11 BY LAW OR COURT RULE FOR SERVING MOTIONS IN PENDING CASES.

12 12-3006. Validity of agreement to arbitrate

13 A. AN AGREEMENT CONTAINED IN A RECORD TO SUBMIT TO ARBITRATION ANY
14 EXISTING OR SUBSEQUENT CONTROVERSY ARISING BETWEEN THE PARTIES TO THE
15 AGREEMENT IS VALID, ENFORCEABLE AND IRREVOCABLE EXCEPT ON A GROUND THAT
16 EXISTS AT LAW OR IN EQUITY FOR THE REVOCATION OF A CONTRACT.

17 B. THE COURT SHALL DECIDE WHETHER AN AGREEMENT TO ARBITRATE EXISTS OR
18 A CONTROVERSY IS SUBJECT TO AN AGREEMENT TO ARBITRATE.

19 C. AN ARBITRATOR SHALL DECIDE WHETHER A CONDITION PRECEDENT TO
20 ARBITRABILITY HAS BEEN FULFILLED AND WHETHER A CONTRACT CONTAINING A VALID
21 AGREEMENT TO ARBITRATE IS ENFORCEABLE.

22 D. IF A PARTY TO A JUDICIAL PROCEEDING CHALLENGES THE EXISTENCE OF, OR
23 CLAIMS THAT A CONTROVERSY IS NOT SUBJECT TO, AN AGREEMENT TO ARBITRATE, THE
24 ARBITRATION PROCEEDING MAY CONTINUE PENDING FINAL RESOLUTION OF THE ISSUE BY
25 THE COURT, UNLESS THE COURT OTHERWISE ORDERS.

26 12-3007. Motion to compel or stay arbitration

27 A. ON MOTION OF A PERSON SHOWING AN AGREEMENT TO ARBITRATE AND
28 ALLEGING ANOTHER PERSON'S REFUSAL TO ARBITRATE PURSUANT TO THE AGREEMENT:

29 1. IF THE REFUSING PARTY DOES NOT APPEAR OR DOES NOT OPPOSE THE
30 MOTION, THE COURT SHALL ORDER THE PARTIES TO ARBITRATE.

1 2. IF THE REFUSING PARTY OPPOSES THE MOTION, THE COURT SHALL PROCEED
2 SUMMARILY TO DECIDE THE ISSUE AND ORDER THE PARTIES TO ARBITRATE UNLESS IT
3 FINDS THAT THERE IS NO ENFORCEABLE AGREEMENT TO ARBITRATE.

4 B. ON MOTION OF A PERSON ALLEGING THAT AN ARBITRATION PROCEEDING HAS
5 BEEN INITIATED OR THREATENED BUT THAT THERE IS NO AGREEMENT TO ARBITRATE, THE
6 COURT SHALL PROCEED SUMMARILY TO DECIDE THE ISSUE. IF THE COURT FINDS THAT
7 THERE IS AN ENFORCEABLE AGREEMENT TO ARBITRATE, IT SHALL ORDER THE PARTIES TO
8 ARBITRATE.

9 C. IF THE COURT FINDS THAT THERE IS NO ENFORCEABLE AGREEMENT, IT MAY
10 NOT ORDER THE PARTIES TO ARBITRATE PURSUANT TO SUBSECTION A OR B OF THIS
11 SECTION.

12 D. THE COURT MAY NOT REFUSE TO ORDER ARBITRATION BECAUSE THE CLAIM
13 SUBJECT TO ARBITRATION LACKS MERIT OR GROUNDS FOR THE CLAIM HAVE NOT BEEN
14 ESTABLISHED.

15 E. IF A PROCEEDING INVOLVING A CLAIM REFERABLE TO ARBITRATION UNDER AN
16 ALLEGED AGREEMENT TO ARBITRATE IS PENDING IN COURT, A MOTION UNDER THIS
17 SECTION MUST BE MADE IN THAT COURT. OTHERWISE, A MOTION UNDER THIS SECTION
18 MAY BE MADE IN ANY COURT AS PROVIDED IN SECTION 12-3027.

19 F. IF A PARTY MAKES A MOTION TO THE COURT TO ORDER ARBITRATION, THE
20 COURT ON JUST TERMS SHALL STAY ANY JUDICIAL PROCEEDING THAT INVOLVES A CLAIM
21 ALLEGED TO BE SUBJECT TO THE ARBITRATION UNTIL THE COURT RENDERS A FINAL
22 DECISION UNDER THIS SECTION.

23 G. IF THE COURT ORDERS ARBITRATION, THE COURT ON JUST TERMS SHALL STAY
24 ANY JUDICIAL PROCEEDING THAT INVOLVES A CLAIM SUBJECT TO THE ARBITRATION. IF
25 A CLAIM SUBJECT TO THE ARBITRATION IS SEVERABLE, THE COURT MAY LIMIT THE STAY
26 TO THAT CLAIM.

27 12-3008. Interim remedies

28 A. BEFORE AN ARBITRATOR IS APPOINTED AND IS AUTHORIZED AND ABLE TO
29 ACT, THE COURT, ON MOTION OF A PARTY TO AN ARBITRATION PROCEEDING AND FOR
30 GOOD CAUSE SHOWN, MAY ENTER AN ORDER FOR INTERIM REMEDIES TO PROTECT THE
31 EFFECTIVENESS OF THE ARBITRATION PROCEEDING TO THE SAME EXTENT AND UNDER THE
32 SAME CONDITIONS AS IF THE CONTROVERSY WERE THE SUBJECT OF A CIVIL ACTION.

1 B. AFTER AN ARBITRATOR IS APPOINTED AND IS AUTHORIZED AND ABLE TO ACT:

2 1. THE ARBITRATOR MAY ISSUE SUCH ORDERS FOR INTERIM REMEDIES,
3 INCLUDING INTERIM AWARDS, AS THE ARBITRATOR FINDS NECESSARY TO PROTECT THE
4 EFFECTIVENESS OF THE ARBITRATION PROCEEDING AND TO PROMOTE THE FAIR AND
5 EXPEDITIOUS RESOLUTION OF THE CONTROVERSY, TO THE SAME EXTENT AND UNDER THE
6 SAME CONDITIONS AS IF THE CONTROVERSY WERE THE SUBJECT OF A CIVIL ACTION.

7 2. A PARTY TO AN ARBITRATION PROCEEDING MAY MOVE THE COURT FOR AN
8 INTERIM REMEDY ONLY IF THE MATTER IS URGENT AND THE ARBITRATOR IS NOT ABLE TO
9 ACT TIMELY OR THE ARBITRATOR CANNOT PROVIDE AN ADEQUATE REMEDY.

10 C. A PARTY DOES NOT WAIVE A RIGHT OF ARBITRATION BY MAKING A MOTION
11 UNDER SUBSECTION A OR B.

12 12-3009. Initiation of arbitration; notice

13 A. A PERSON INITIATES AN ARBITRATION PROCEEDING BY GIVING NOTICE IN A
14 RECORD TO THE OTHER PARTIES TO THE AGREEMENT TO ARBITRATE IN THE AGREED
15 MANNER BETWEEN THE PARTIES OR, IN THE ABSENCE OF AN AGREEMENT, BY CERTIFIED
16 MAIL, RETURN RECEIPT REQUESTED, OR BY SERVICE AS AUTHORIZED FOR THE
17 COMMENCEMENT OF A CIVIL ACTION. THE NOTICE MUST DESCRIBE THE NATURE OF THE
18 CONTROVERSY AND THE REMEDY SOUGHT.

19 B. UNLESS A PERSON OBJECTS FOR LACK OR INSUFFICIENCY OF NOTICE UNDER
20 SECTION 12-3015, SUBSECTION C NOT LATER THAN THE BEGINNING OF THE ARBITRATION
21 HEARING, THE PERSON BY APPEARING AT THE HEARING WAIVES ANY OBJECTION TO LACK
22 OR INSUFFICIENCY OF NOTICE.

23 12-3010. Consolidation of separate arbitration proceedings

24 A. EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION C, ON MOTION OF A PARTY
25 TO AN AGREEMENT TO ARBITRATE OR TO AN ARBITRATION PROCEEDING, THE COURT MAY
26 ORDER CONSOLIDATION OF SEPARATE ARBITRATION PROCEEDINGS AS TO ALL OR SOME OF
27 THE CLAIMS IF ALL OF THE FOLLOWING APPLY:

28 1. THERE ARE SEPARATE AGREEMENTS TO ARBITRATE OR SEPARATE ARBITRATION
29 PROCEEDINGS BETWEEN THE SAME PERSONS OR ONE OF THEM IS A PARTY TO A SEPARATE
30 AGREEMENT TO ARBITRATE OR A SEPARATE ARBITRATION PROCEEDING WITH A THIRD
31 PERSON.

1 2. THE CLAIMS SUBJECT TO THE AGREEMENTS TO ARBITRATE ARISE IN
2 SUBSTANTIAL PART FROM THE SAME TRANSACTION OR SERIES OF RELATED TRANSACTIONS.

3 3. THE EXISTENCE OF A COMMON ISSUE OF LAW OR FACT CREATES THE
4 POSSIBILITY OF CONFLICTING DECISIONS IN THE SEPARATE ARBITRATION PROCEEDINGS.

5 4. PREJUDICE RESULTING FROM A FAILURE TO CONSOLIDATE IS NOT OUTWEIGHED
6 BY THE RISK OF UNDUE DELAY OR PREJUDICE TO THE RIGHTS OF OR HARDSHIP TO
7 PARTIES OPPOSING CONSOLIDATION.

8 B. THE COURT MAY ORDER CONSOLIDATION OF SEPARATE ARBITRATION
9 PROCEEDINGS AS TO SOME CLAIMS AND ALLOW OTHER CLAIMS TO BE RESOLVED IN
10 SEPARATE ARBITRATION PROCEEDINGS.

11 C. THE COURT MAY NOT ORDER CONSOLIDATION OF THE CLAIMS OF A PARTY TO
12 AN AGREEMENT TO ARBITRATE IF THE AGREEMENT PROHIBITS CONSOLIDATION.

13 12-3011. Appointment of arbitrator; service as a neutral
14 arbitrator

15 A. IF THE PARTIES TO AN AGREEMENT TO ARBITRATE AGREE ON A METHOD FOR
16 APPOINTING AN ARBITRATOR, THAT METHOD MUST BE FOLLOWED UNLESS THE METHOD
17 FAILS. IF THE PARTIES HAVE NOT AGREED ON A METHOD, THE AGREED METHOD FAILS
18 OR AN ARBITRATOR APPOINTED FAILS OR IS UNABLE TO ACT AND A SUCCESSOR HAS NOT
19 BEEN APPOINTED, THE COURT, ON MOTION OF A PARTY TO THE ARBITRATION
20 PROCEEDING, SHALL APPOINT THE ARBITRATOR. AN ARBITRATOR SO APPOINTED HAS ALL
21 THE POWERS OF AN ARBITRATOR DESIGNATED IN THE AGREEMENT TO ARBITRATE OR
22 APPOINTED PURSUANT TO THE AGREED METHOD.

23 B. AN INDIVIDUAL WHO HAS A KNOWN, DIRECT AND MATERIAL INTEREST IN THE
24 OUTCOME OF THE ARBITRATION PROCEEDING OR A KNOWN, EXISTING AND SUBSTANTIAL
25 RELATIONSHIP WITH A PARTY MAY NOT SERVE AS AN ARBITRATOR REQUIRED BY AN
26 AGREEMENT TO BE NEUTRAL.

27 12-3012. Disclosure by arbitrator

28 A. BEFORE ACCEPTING APPOINTMENT, AN INDIVIDUAL WHO IS REQUESTED TO
29 SERVE AS AN ARBITRATOR, AFTER MAKING A REASONABLE INQUIRY, SHALL DISCLOSE TO
30 ALL PARTIES TO THE AGREEMENT TO ARBITRATE, TO THE ARBITRATION PROCEEDING AND
31 TO ANY OTHER ARBITRATORS ANY KNOWN FACTS THAT A REASONABLE PERSON WOULD

1 CONSIDER LIKELY TO AFFECT THE IMPARTIALITY OF THE ARBITRATOR IN THE
2 ARBITRATION PROCEEDING, INCLUDING BOTH:

3 1. A FINANCIAL OR PERSONAL INTEREST IN THE OUTCOME OF THE ARBITRATION
4 PROCEEDING.

5 2. AN EXISTING OR PAST RELATIONSHIP WITH ANY OF THE PARTIES TO THE
6 AGREEMENT TO ARBITRATE OR THE ARBITRATION PROCEEDING, THEIR COUNSEL OR
7 REPRESENTATIVES, A WITNESS OR ANOTHER ARBITRATOR.

8 B. AN ARBITRATOR HAS A CONTINUING OBLIGATION TO DISCLOSE TO ALL
9 PARTIES TO THE AGREEMENT TO ARBITRATE, TO THE ARBITRATION PROCEEDING AND TO
10 ANY OTHER ARBITRATORS ANY FACTS THAT THE ARBITRATOR LEARNS AFTER ACCEPTING
11 APPOINTMENT THAT A REASONABLE PERSON WOULD CONSIDER LIKELY TO AFFECT THE
12 IMPARTIALITY OF THE ARBITRATOR.

13 C. IF AN ARBITRATOR DISCLOSES A FACT REQUIRED BY SUBSECTION A OR B OF
14 THIS SECTION TO BE DISCLOSED AND A PARTY TIMELY OBJECTS TO THE APPOINTMENT OR
15 CONTINUED SERVICE OF THE ARBITRATOR BASED ON THE FACT DISCLOSED, THE
16 OBJECTION MAY BE A GROUND UNDER SECTION 12-3023, SUBSECTION A, PARAGRAPH 2
17 FOR VACATING AN AWARD MADE BY THE ARBITRATOR.

18 D. IF THE ARBITRATOR DID NOT DISCLOSE A FACT AS REQUIRED BY SUBSECTION
19 A OR B OF THIS SECTION, ON TIMELY OBJECTION BY A PARTY, THE COURT UNDER
20 SECTION 12-3023, SUBSECTION A, PARAGRAPH 2 MAY VACATE AN AWARD MADE BY THE
21 ARBITRATOR.

22 E. AN ARBITRATOR APPOINTED AS A NEUTRAL ARBITRATOR WHO DOES NOT
23 DISCLOSE A KNOWN, DIRECT AND MATERIAL INTEREST IN THE OUTCOME OF THE
24 ARBITRATION PROCEEDING OR A KNOWN, EXISTING AND SUBSTANTIAL RELATIONSHIP WITH
25 A PARTY IS PRESUMED TO ACT WITH EVIDENT PARTIALITY UNDER SECTION 12-3023,
26 SUBSECTION A, PARAGRAPH 2.

27 F. IF THE PARTIES TO AN ARBITRATION PROCEEDING AGREE TO THE PROCEDURES
28 OF AN ARBITRATION ORGANIZATION OR ANY OTHER PROCEDURES FOR CHALLENGES TO
29 ARBITRATORS BEFORE AN AWARD IS MADE, SUBSTANTIAL COMPLIANCE WITH THOSE
30 PROCEDURES IS A CONDITION PRECEDENT TO A MOTION TO VACATE AN AWARD ON THAT
31 GROUND UNDER SECTION 12-3023, SUBSECTION A, PARAGRAPH 2.

32 12-3013. Action by majority

1 IF THERE IS MORE THAN ONE ARBITRATOR, THE POWERS OF AN ARBITRATOR MUST
2 BE EXERCISED BY A MAJORITY OF THE ARBITRATORS, BUT ALL OF THEM SHALL CONDUCT
3 THE HEARING UNDER SECTION 12-3015, SUBSECTION C.

4 12-3014. Immunity of arbitrator; competency to testify;
5 attorney fees and litigation expenses

6 A. AN ARBITRATOR OR AN ARBITRATION ORGANIZATION ACTING IN THAT
7 CAPACITY IS IMMUNE FROM CIVIL LIABILITY TO THE SAME EXTENT AS A JUDGE OF A
8 COURT OF THIS STATE ACTING IN A JUDICIAL CAPACITY.

9 B. THE IMMUNITY AFFORDED BY THIS SECTION SUPPLEMENTS ANY IMMUNITY
10 UNDER OTHER LAW.

11 C. THE FAILURE OF AN ARBITRATOR TO MAKE A DISCLOSURE REQUIRED BY
12 SECTION 12-3012 DOES NOT CAUSE ANY LOSS OF IMMUNITY UNDER THIS SECTION.

13 D. IN A JUDICIAL, ADMINISTRATIVE OR SIMILAR PROCEEDING, AN ARBITRATOR
14 OR REPRESENTATIVE OF AN ARBITRATION ORGANIZATION IS NOT COMPETENT TO TESTIFY,
15 AND MAY NOT BE REQUIRED TO PRODUCE RECORDS AS TO ANY STATEMENT, CONDUCT,
16 DECISION OR RULING OCCURRING DURING THE ARBITRATION PROCEEDING, TO THE SAME
17 EXTENT AS A JUDGE OF A COURT OF THIS STATE ACTING IN A JUDICIAL CAPACITY.
18 THIS SUBSECTION DOES NOT APPLY:

19 1. TO THE EXTENT NECESSARY TO DETERMINE THE CLAIM OF AN ARBITRATOR,
20 ARBITRATION ORGANIZATION OR REPRESENTATIVE OF THE ARBITRATION ORGANIZATION
21 AGAINST A PARTY TO THE ARBITRATION PROCEEDING.

22 2. TO A HEARING ON A MOTION TO VACATE AN AWARD UNDER SECTION 12-3023,
23 SUBSECTION A, PARAGRAPH 1 OR 2 IF THE MOVANT ESTABLISHES PRIMA FACIE THAT A
24 GROUND FOR VACATING THE AWARD EXISTS.

25 E. IF A PERSON COMMENCES A CIVIL ACTION AGAINST AN ARBITRATOR,
26 ARBITRATION ORGANIZATION OR REPRESENTATIVE OF AN ARBITRATION ORGANIZATION
27 ARISING FROM THE SERVICES OF THE ARBITRATOR, ORGANIZATION OR REPRESENTATIVE
28 OR IF A PERSON SEEKS TO COMPEL AN ARBITRATOR OR A REPRESENTATIVE OF AN
29 ARBITRATION ORGANIZATION TO TESTIFY OR PRODUCE RECORDS IN VIOLATION OF
30 SUBSECTION D OF THIS SECTION, AND THE COURT DECIDES THAT THE ARBITRATOR,
31 ARBITRATION ORGANIZATION OR REPRESENTATIVE OF AN ARBITRATION ORGANIZATION IS
32 IMMUNE FROM CIVIL LIABILITY OR THAT THE ARBITRATOR OR REPRESENTATIVE OF THE

1 ORGANIZATION IS NOT COMPETENT TO TESTIFY, THE COURT SHALL AWARD TO THE
2 ARBITRATOR, ORGANIZATION OR REPRESENTATIVE REASONABLE ATTORNEY FEES AND OTHER
3 REASONABLE EXPENSES OF LITIGATION.

4 12-3015. Arbitration process

5 A. AN ARBITRATOR MAY CONDUCT AN ARBITRATION IN SUCH MANNER AS THE
6 ARBITRATOR CONSIDERS APPROPRIATE FOR A FAIR AND EXPEDITIOUS DISPOSITION OF
7 THE PROCEEDING. THE AUTHORITY CONFERRED ON THE ARBITRATOR INCLUDES THE POWER
8 TO HOLD CONFERENCES WITH THE PARTIES TO THE ARBITRATION PROCEEDING BEFORE THE
9 HEARING AND, AMONG OTHER MATTERS, TO DETERMINE THE ADMISSIBILITY, RELEVANCE,
10 MATERIALITY AND WEIGHT OF ANY EVIDENCE.

11 B. AN ARBITRATOR MAY DECIDE A REQUEST FOR SUMMARY DISPOSITION OF A
12 CLAIM OR PARTICULAR ISSUE EITHER:

13 1. IF ALL INTERESTED PARTIES AGREE.

14 2. ON REQUEST OF ONE PARTY TO THE ARBITRATION PROCEEDING IF THAT PARTY
15 GIVES NOTICE TO ALL OTHER PARTIES TO THE PROCEEDING AND THE OTHER PARTIES
16 HAVE A REASONABLE OPPORTUNITY TO RESPOND.

17 C. IF AN ARBITRATOR ORDERS A HEARING, THE ARBITRATOR SHALL SET A TIME
18 AND PLACE AND GIVE NOTICE OF THE HEARING AT LEAST FIVE DAYS BEFORE THE
19 HEARING BEGINS. UNLESS A PARTY TO THE ARBITRATION PROCEEDING MAKES AN
20 OBJECTION TO LACK OR INSUFFICIENCY OF NOTICE NOT LATER THAN THE BEGINNING OF
21 THE HEARING, THE PARTY'S APPEARANCE AT THE HEARING WAIVES THE OBJECTION. ON
22 REQUEST OF A PARTY TO THE ARBITRATION PROCEEDING AND FOR GOOD CAUSE SHOWN, OR
23 ON THE ARBITRATOR'S OWN INITIATIVE, THE ARBITRATOR MAY ADJOURN THE HEARING
24 FROM TIME TO TIME AS NECESSARY BUT MAY NOT POSTPONE THE HEARING TO A TIME
25 LATER THAN THAT FIXED BY THE AGREEMENT TO ARBITRATE FOR MAKING THE AWARD
26 UNLESS THE PARTIES TO THE ARBITRATION PROCEEDING CONSENT TO A LATER
27 DATE. THE ARBITRATOR MAY HEAR AND DECIDE THE CONTROVERSY ON THE EVIDENCE
28 PRODUCED ALTHOUGH A PARTY WHO WAS DULY NOTIFIED OF THE ARBITRATION PROCEEDING
29 DID NOT APPEAR. THE COURT, ON REQUEST, MAY DIRECT THE ARBITRATOR TO CONDUCT
30 THE HEARING PROMPTLY AND RENDER A TIMELY DECISION.

1 D. AT A HEARING UNDER SUBSECTION C OF THIS SECTION, A PARTY TO THE
2 ARBITRATION PROCEEDING HAS A RIGHT TO BE HEARD, TO PRESENT EVIDENCE MATERIAL
3 TO THE CONTROVERSY AND TO CROSS-EXAMINE WITNESSES APPEARING AT THE HEARING.

4 E. IF AN ARBITRATOR CEASES OR IS UNABLE TO ACT DURING THE ARBITRATION
5 PROCEEDING, A REPLACEMENT ARBITRATOR MUST BE APPOINTED IN ACCORDANCE WITH
6 SECTION 12-3011 TO CONTINUE THE PROCEEDING AND TO RESOLVE THE CONTROVERSY.

7 12-3016. Representation by lawyer

8 A PARTY TO AN ARBITRATION PROCEEDING MAY BE REPRESENTED BY A LAWYER.

9 12-3017. Witnesses; subpoenas; depositions; discovery

10 A. AN ARBITRATOR MAY ISSUE A SUBPOENA FOR THE ATTENDANCE OF A WITNESS
11 AND FOR THE PRODUCTION OF RECORDS AND OTHER EVIDENCE AT ANY HEARING AND MAY
12 ADMINISTER OATHS. A SUBPOENA MUST BE SERVED IN THE MANNER FOR SERVICE OF
13 SUBPOENAS IN A CIVIL ACTION AND, ON MOTION TO THE COURT BY A PARTY TO THE
14 ARBITRATION PROCEEDING OR THE ARBITRATOR, ENFORCED IN THE MANNER FOR
15 ENFORCEMENT OF SUBPOENAS IN A CIVIL ACTION.

16 B. IN ORDER TO MAKE THE PROCEEDINGS FAIR, EXPEDITIOUS AND COST
17 EFFECTIVE, ON REQUEST OF A PARTY TO OR A WITNESS IN AN ARBITRATION
18 PROCEEDING, AN ARBITRATOR MAY PERMIT A DEPOSITION OF ANY WITNESS TO BE TAKEN
19 FOR USE AS EVIDENCE AT THE HEARING, INCLUDING A WITNESS WHO CANNOT BE
20 SUBPOENAED FOR OR IS UNABLE TO ATTEND A HEARING. THE ARBITRATOR SHALL
21 DETERMINE THE CONDITIONS UNDER WHICH THE DEPOSITION IS TAKEN.

22 C. AN ARBITRATOR MAY PERMIT SUCH DISCOVERY AS THE ARBITRATOR DECIDES
23 IS APPROPRIATE IN THE CIRCUMSTANCES, TAKING INTO ACCOUNT THE NEEDS OF THE
24 PARTIES TO THE ARBITRATION PROCEEDING AND OTHER AFFECTED PERSONS AND THE
25 DESIRABILITY OF MAKING THE PROCEEDING FAIR, EXPEDITIOUS AND COST EFFECTIVE.

26 D. IF AN ARBITRATOR PERMITS DISCOVERY UNDER SUBSECTION C, THE
27 ARBITRATOR MAY ORDER A PARTY TO THE ARBITRATION PROCEEDING TO COMPLY WITH THE
28 ARBITRATOR'S DISCOVERY RELATED ORDERS, ISSUE SUBPOENAS FOR THE ATTENDANCE OF
29 A WITNESS AND FOR THE PRODUCTION OF RECORDS AND OTHER EVIDENCE AT A DISCOVERY
30 PROCEEDING AND TAKE ACTION AGAINST A NONCOMPLYING PARTY TO THE EXTENT A COURT
31 COULD IF THE CONTROVERSY WERE THE SUBJECT OF A CIVIL ACTION IN THIS STATE.

1 E. AN ARBITRATOR MAY ISSUE A PROTECTIVE ORDER TO PREVENT THE
2 DISCLOSURE OF PRIVILEGED INFORMATION, CONFIDENTIAL INFORMATION, TRADE SECRETS
3 AND OTHER INFORMATION PROTECTED FROM DISCLOSURE TO THE EXTENT A COURT COULD
4 IF THE CONTROVERSY WERE THE SUBJECT OF A CIVIL ACTION IN THIS STATE.

5 F. ALL LAWS COMPELLING A PERSON UNDER SUBPOENA TO TESTIFY AND ALL FEES
6 FOR ATTENDING A JUDICIAL PROCEEDING, A DEPOSITION OR A DISCOVERY PROCEEDING
7 AS A WITNESS APPLY TO AN ARBITRATION PROCEEDING AS IF THE CONTROVERSY WERE
8 THE SUBJECT OF A CIVIL ACTION IN THIS STATE.

9 G. THE COURT MAY ENFORCE A SUBPOENA OR DISCOVERY RELATED ORDER FOR THE
10 ATTENDANCE OF A WITNESS WITHIN THIS STATE AND FOR THE PRODUCTION OF RECORDS
11 AND OTHER EVIDENCE ISSUED BY AN ARBITRATOR IN CONNECTION WITH AN ARBITRATION
12 PROCEEDING IN ANOTHER STATE ON CONDITIONS DETERMINED BY THE COURT SO AS TO
13 MAKE THE ARBITRATION PROCEEDING FAIR, EXPEDITIOUS AND COST EFFECTIVE. A
14 SUBPOENA OR DISCOVERY RELATED ORDER ISSUED BY AN ARBITRATOR IN ANOTHER STATE
15 MUST BE SERVED IN THE MANNER PROVIDED BY LAW FOR SERVICE OF SUBPOENAS IN A
16 CIVIL ACTION IN THIS STATE AND, ON MOTION TO THE COURT BY A PARTY TO THE
17 ARBITRATION PROCEEDING OR THE ARBITRATOR, ENFORCED IN THE MANNER PROVIDED BY
18 LAW FOR ENFORCEMENT OF SUBPOENAS IN A CIVIL ACTION IN THIS STATE.

19 12-3018. Judicial enforcement of preaward ruling by arbitrator

20 IF AN ARBITRATOR MAKES A PREAWARD RULING IN FAVOR OF A PARTY TO THE
21 ARBITRATION PROCEEDING, THE PARTY MAY REQUEST THE ARBITRATOR TO INCORPORATE
22 THE RULING INTO AN AWARD UNDER SECTION 12-3019. A PREVAILING PARTY MAY MAKE
23 A MOTION TO THE COURT FOR AN EXPEDITED ORDER TO CONFIRM THE AWARD UNDER
24 SECTION 12-3022, IN WHICH CASE THE COURT SHALL SUMMARILY DECIDE THE MOTION.
25 THE COURT SHALL ISSUE AN ORDER TO CONFIRM THE AWARD UNLESS THE COURT VACATES,
26 MODIFIES OR CORRECTS THE AWARD UNDER SECTION 12-3023 OR 12-3024.

27 12-3019. Award

28 A. AN ARBITRATOR SHALL MAKE A RECORD OF AN AWARD. THE RECORD MUST BE
29 SIGNED OR OTHERWISE AUTHENTICATED BY ANY ARBITRATOR WHO CONCURS WITH THE
30 AWARD. THE ARBITRATOR OR THE ARBITRATION ORGANIZATION SHALL GIVE NOTICE OF
31 THE AWARD, INCLUDING A COPY OF THE AWARD, TO EACH PARTY TO THE ARBITRATION
32 PROCEEDING.

1 B. AN AWARD MUST BE MADE WITHIN THE TIME SPECIFIED BY THE AGREEMENT TO
2 ARBITRATE OR, IF NOT SPECIFIED THEREIN, WITHIN THE TIME ORDERED BY THE COURT.
3 THE COURT MAY EXTEND OR THE PARTIES TO THE ARBITRATION PROCEEDING MAY AGREE
4 IN A RECORD TO EXTEND THE TIME. THE COURT OR THE PARTIES MAY DO SO WITHIN OR
5 AFTER THE TIME SPECIFIED OR ORDERED. A PARTY WAIVES ANY OBJECTION THAT AN
6 AWARD WAS NOT TIMELY MADE UNLESS THE PARTY GIVES NOTICE OF THE OBJECTION TO
7 THE ARBITRATOR BEFORE RECEIVING NOTICE OF THE AWARD.

8 12-3020. Change of award by arbitrator

9 A. ON MOTION TO AN ARBITRATOR BY A PARTY TO AN ARBITRATION PROCEEDING,
10 THE ARBITRATOR MAY MODIFY OR CORRECT AN AWARD EITHER:

11 1. ON A GROUND STATED IN SECTION 12-3024, SUBSECTION A, PARAGRAPH 1
12 OR 3.

13 2. BECAUSE THE ARBITRATOR HAS NOT MADE A FINAL AND DEFINITE AWARD ON A
14 CLAIM SUBMITTED BY THE PARTIES TO THE ARBITRATION PROCEEDING.

15 3. TO CLARIFY THE AWARD.

16 B. A MOTION UNDER SUBSECTION A OF THIS SECTION MUST BE MADE AND NOTICE
17 GIVEN TO ALL PARTIES WITHIN TWENTY DAYS AFTER THE MOVANT RECEIVES NOTICE OF
18 THE AWARD.

19 C. A PARTY TO THE ARBITRATION PROCEEDING MUST GIVE NOTICE OF ANY
20 OBJECTION TO THE MOTION WITHIN TEN DAYS AFTER RECEIPT OF THE NOTICE.

21 D. IF A MOTION TO THE COURT IS PENDING UNDER SECTION 12-3022, 12-3023
22 OR 12-3024, THE COURT MAY SUBMIT THE CLAIM TO THE ARBITRATOR TO CONSIDER
23 WHETHER TO MODIFY OR CORRECT THE AWARD EITHER:

24 1. ON A GROUND STATED IN SECTION 12-3024, SUBSECTION A, PARAGRAPH 1
25 OR 3.

26 2. BECAUSE THE ARBITRATOR HAS NOT MADE A FINAL AND DEFINITE AWARD ON A
27 CLAIM SUBMITTED BY THE PARTIES TO THE ARBITRATION PROCEEDING.

28 3. TO CLARIFY THE AWARD.

29 E. AN AWARD MODIFIED OR CORRECTED PURSUANT TO THIS SECTION IS SUBJECT
30 TO SECTION 12-3019, SUBSECTION A AND SECTIONS 12-3022, 12-3023 AND 12-3024.

31 12-3021. Remedies; fees and expenses of arbitration proceeding

1 A. AN ARBITRATOR MAY AWARD PUNITIVE DAMAGES OR OTHER EXEMPLARY RELIEF
2 IF SUCH AN AWARD IS AUTHORIZED BY LAW IN A CIVIL ACTION INVOLVING THE SAME
3 CLAIM AND THE EVIDENCE PRODUCED AT THE HEARING JUSTIFIES THE AWARD UNDER THE
4 LEGAL STANDARDS OTHERWISE APPLICABLE TO THE CLAIM.

5 B. AN ARBITRATOR MAY AWARD REASONABLE ATTORNEY FEES AND OTHER
6 REASONABLE EXPENSES OF ARBITRATION ONLY IF THAT AWARD IS AUTHORIZED BY LAW IN
7 A CIVIL ACTION INVOLVING THE SAME CLAIM OR BY THE AGREEMENT OF THE PARTIES TO
8 THE ARBITRATION PROCEEDING.

9 C. AS TO ALL REMEDIES OTHER THAN THOSE AUTHORIZED BY SUBSECTION A OF
10 THIS SECTION, AN ARBITRATOR MAY ORDER SUCH REMEDIES AS THE ARBITRATOR
11 CONSIDERS JUST AND APPROPRIATE UNDER THE CIRCUMSTANCES OF THE ARBITRATION
12 PROCEEDING. THE FACT THAT SUCH A REMEDY COULD NOT OR WOULD NOT BE GRANTED BY
13 THE COURT IS NOT A GROUND FOR REFUSING TO CONFIRM AN AWARD UNDER SECTION
14 12-3022 OR FOR VACATING AN AWARD UNDER SECTION 12-3023.

15 D. AN ARBITRATOR'S EXPENSES AND FEES, TOGETHER WITH OTHER EXPENSES,
16 MUST BE PAID AS PROVIDED IN THE AWARD.

17 E. IF AN ARBITRATOR AWARDS PUNITIVE DAMAGES OR OTHER EXEMPLARY RELIEF
18 UNDER SUBSECTION A OF THIS SECTION, THE ARBITRATOR SHALL SPECIFY IN THE AWARD
19 THE BASIS IN FACT JUSTIFYING AND THE BASIS IN LAW AUTHORIZING THE AWARD AND
20 STATE SEPARATELY THE AMOUNT OF THE PUNITIVE DAMAGES OR OTHER EXEMPLARY
21 RELIEF.

22 12-3022. Confirmation of award

23 AFTER A PARTY TO AN ARBITRATION PROCEEDING RECEIVES NOTICE OF AN AWARD,
24 THE PARTY MAY MAKE A MOTION TO THE COURT FOR AN ORDER CONFIRMING THE AWARD AT
25 WHICH TIME THE COURT SHALL ISSUE A CONFIRMING ORDER UNLESS THE AWARD IS
26 MODIFIED OR CORRECTED PURSUANT TO SECTION 12-3020 OR 12-3024 OR IS VACATED
27 PURSUANT TO SECTION 12-3023.

28 12-3023. Vacating award

29 A. ON MOTION TO THE COURT BY A PARTY TO AN ARBITRATION PROCEEDING, THE
30 COURT SHALL VACATE AN AWARD MADE IN THE ARBITRATION PROCEEDING IF ANY OF THE
31 FOLLOWING APPLIES:

32 1. THE AWARD WAS PROCURED BY CORRUPTION, FRAUD OR OTHER UNDUE MEANS.

1 2. THERE WAS EITHER:

2 (a) EVIDENT PARTIALITY BY AN ARBITRATOR APPOINTED AS A NEUTRAL
3 ARBITRATOR.

4 (b) CORRUPTION BY AN ARBITRATOR.

5 (c) MISCONDUCT BY AN ARBITRATOR PREJUDICING THE RIGHTS OF A PARTY TO
6 THE ARBITRATION PROCEEDING.

7 3. AN ARBITRATOR REFUSED TO POSTPONE THE HEARING ON SHOWING OF
8 SUFFICIENT CAUSE FOR POSTPONEMENT, REFUSED TO CONSIDER EVIDENCE MATERIAL TO
9 THE CONTROVERSY OR OTHERWISE CONDUCTED THE HEARING CONTRARY TO SECTION
10 12-3015, SO AS TO PREJUDICE SUBSTANTIALLY THE RIGHTS OF A PARTY TO THE
11 ARBITRATION PROCEEDING.

12 4. AN ARBITRATOR EXCEEDED THE ARBITRATOR'S POWERS.

13 5. THERE WAS NO AGREEMENT TO ARBITRATE, UNLESS THE PERSON PARTICIPATED
14 IN THE ARBITRATION PROCEEDING WITHOUT RAISING THE OBJECTION UNDER SECTION
15 12-3015, SUBSECTION C NOT LATER THAN THE BEGINNING OF THE ARBITRATION
16 HEARING.

17 6. THE ARBITRATION WAS CONDUCTED WITHOUT PROPER NOTICE OF THE
18 INITIATION OF AN ARBITRATION AS REQUIRED IN SECTION 12-3009 SO AS TO
19 PREJUDICE SUBSTANTIALLY THE RIGHTS OF A PARTY TO THE ARBITRATION PROCEEDING.

20 B. A MOTION UNDER THIS SECTION MUST BE FILED WITHIN NINETY DAYS AFTER
21 THE MOVANT RECEIVES NOTICE OF THE AWARD PURSUANT TO SECTION 12-3019 OR WITHIN
22 NINETY DAYS AFTER THE MOVANT RECEIVES NOTICE OF A MODIFIED OR CORRECTED AWARD
23 PURSUANT TO SECTION 12-3020, UNLESS THE MOVANT ALLEGES THAT THE AWARD WAS
24 PROCURED BY CORRUPTION, FRAUD OR OTHER UNDUE MEANS, IN WHICH CASE THE MOTION
25 MUST BE MADE WITHIN NINETY DAYS AFTER THE GROUND IS KNOWN OR BY THE EXERCISE
26 OF REASONABLE CARE WOULD HAVE BEEN KNOWN BY THE MOVANT.

27 C. IF THE COURT VACATES AN AWARD ON A GROUND OTHER THAN THAT SET FORTH
28 IN SUBSECTION A, PARAGRAPH 5 OF THIS SECTION, IT MAY ORDER A REHEARING. IF
29 THE AWARD IS VACATED ON A GROUND STATED IN SUBSECTION A, PARAGRAPH 1 OR 2 OF
30 THIS SECTION, THE REHEARING MUST BE BEFORE A NEW ARBITRATOR. IF THE AWARD IS
31 VACATED ON A GROUND STATED IN SUBSECTION A, PARAGRAPH 3, 4 OR 6 OF THIS
32 SECTION, THE REHEARING MAY BE BEFORE THE ARBITRATOR WHO MADE THE AWARD OR THE

1 ARBITRATOR'S SUCCESSOR. THE ARBITRATOR MUST RENDER THE DECISION IN THE
2 REHEARING WITHIN THE SAME TIME AS THAT PROVIDED IN SECTION 12-3019,
3 SUBSECTION B FOR AN AWARD.

4 D. IF THE COURT DENIES A MOTION TO VACATE AN AWARD, IT SHALL CONFIRM
5 THE AWARD UNLESS A MOTION TO MODIFY OR CORRECT THE AWARD IS PENDING.

6 12-3024. Modification or correction of award

7 A. ON MOTION MADE WITHIN NINETY DAYS AFTER THE MOVANT RECEIVES NOTICE
8 OF THE AWARD PURSUANT TO SECTION 12-3019 OR WITHIN NINETY DAYS AFTER THE
9 MOVANT RECEIVES NOTICE OF A MODIFIED OR CORRECTED AWARD PURSUANT TO SECTION
10 12-3020, THE COURT SHALL MODIFY OR CORRECT THE AWARD IF EITHER:

11 1. THERE WAS AN EVIDENT MATHEMATICAL MISCALCULATION OR AN EVIDENT
12 MISTAKE IN THE DESCRIPTION OF A PERSON OR THING OR PROPERTY REFERRED TO IN
13 THE AWARD.

14 2. THE ARBITRATOR MADE AN AWARD ON A CLAIM NOT SUBMITTED TO THE
15 ARBITRATOR AND THE AWARD MAY BE CORRECTED WITHOUT AFFECTING THE MERITS OF THE
16 DECISION ON THE CLAIMS SUBMITTED.

17 3. THE AWARD IS IMPERFECT IN A MATTER OF FORM NOT AFFECTING THE MERITS
18 OF THE DECISION ON THE CLAIMS SUBMITTED.

19 B. IF A MOTION MADE UNDER SUBSECTION A OF THIS SECTION IS GRANTED, THE
20 COURT SHALL MODIFY OR CORRECT AND CONFIRM THE AWARD AS MODIFIED OR CORRECTED.
21 OTHERWISE, UNLESS A MOTION TO VACATE IS PENDING, THE COURT SHALL CONFIRM THE
22 AWARD.

23 C. A MOTION TO MODIFY OR CORRECT AN AWARD PURSUANT TO THIS SECTION MAY
24 BE JOINED WITH A MOTION TO VACATE THE AWARD.

25 12-3025. Judgment on award: attorney fees and litigation
26 expenses

27 A. ON GRANTING AN ORDER VACATING AN AWARD WITHOUT DIRECTING A
28 REHEARING OR CONFIRMING, MODIFYING OR CORRECTING AN AWARD, THE COURT SHALL
29 ENTER A JUDGMENT IN CONFORMITY WITH THE ORDER. THE JUDGMENT MAY BE RECORDED,
30 DOCKETED AND ENFORCED AS ANY OTHER JUDGMENT IN A CIVIL ACTION.

31 B. A COURT MAY ALLOW REASONABLE COSTS OF THE MOTION AND SUBSEQUENT
32 JUDICIAL PROCEEDINGS.

1 C. ON APPLICATION OF A PREVAILING PARTY TO A CONTESTED JUDICIAL
2 PROCEEDING UNDER SECTION 12-3022, 12-3023 OR 12-3024, THE COURT MAY ADD
3 REASONABLE ATTORNEY FEES AND OTHER REASONABLE EXPENSES OF LITIGATION INCURRED
4 IN A JUDICIAL PROCEEDING AFTER THE AWARD IS MADE TO A JUDGMENT VACATING AN
5 AWARD WITHOUT DIRECTING A REHEARING OR CONFIRMING, MODIFYING OR CORRECTING AN
6 AWARD.

7 12-3026. Jurisdiction

8 A. A COURT OF THIS STATE HAVING JURISDICTION OVER THE CONTROVERSY AND
9 THE PARTIES MAY ENFORCE AN AGREEMENT TO ARBITRATE.

10 B. AN AGREEMENT TO ARBITRATE PROVIDING FOR ARBITRATION IN THIS STATE
11 CONFERS EXCLUSIVE JURISDICTION ON THE COURT TO ENTER JUDGMENT ON AN AWARD
12 UNDER THIS CHAPTER.

13 12-3027. Venue

14 A MOTION PURSUANT TO SECTION 12-3005 MUST BE MADE IN THE COURT OF THE
15 COUNTY IN WHICH THE AGREEMENT TO ARBITRATE SPECIFIES THE ARBITRATION HEARING
16 IS TO BE HELD OR, IF THE HEARING HAS BEEN HELD, IN THE COURT OF THE COUNTY IN
17 WHICH IT WAS HELD. OTHERWISE, THE MOTION MAY BE MADE IN THE COURT OF ANY
18 COUNTY IN WHICH AN ADVERSE PARTY RESIDES OR HAS A PLACE OF BUSINESS OR, IF NO
19 ADVERSE PARTY HAS A RESIDENCE OR PLACE OF BUSINESS IN THIS STATE, IN THE
20 COURT OF ANY COUNTY IN THIS STATE. ALL SUBSEQUENT MOTIONS MUST BE MADE IN
21 THE COURT HEARING THE INITIAL MOTION UNLESS THE COURT OTHERWISE DIRECTS.

22 12-3028. Uniformity of application and construction

23 IN APPLYING AND CONSTRUING THIS CHAPTER, CONSIDERATION MUST BE GIVEN TO
24 THE NEED TO PROMOTE UNIFORMITY OF THE LAW WITH RESPECT TO ITS SUBJECT MATTER
25 AMONG STATES THAT ENACT IT.

26 12-3029. Relationship to electronic signatures in global and national
27 commerce act

28 THE PROVISIONS OF THIS CHAPTER GOVERNING THE LEGAL EFFECT, VALIDITY AND
29 ENFORCEABILITY OF ELECTRONIC RECORDS OR ELECTRONIC SIGNATURES AND OF
30 CONTRACTS PERFORMED WITH THE USE OF SUCH RECORDS OR SIGNATURES CONFORM TO THE
31 REQUIREMENTS OF SECTION 102 OF THE ELECTRONIC SIGNATURES IN GLOBAL AND

1 NATIONAL COMMERCE ACT (P.L. 106-229; 114 STAT. 463; 15 UNITED STATES CODE
2 SECTIONS 7001 AND 7002).

3 Sec. 5. Section 41-2615, Arizona Revised Statutes, is amended to read:

4 41-2615. Exclusive remedy

5 Notwithstanding any law to the contrary, including ~~the provisions of~~
6 title 12, chapter 7, article 2 and title 12, chapter ~~9, article 1~~ 21, this
7 article and the rules ~~promulgated~~ ADOPTED under this article shall provide
8 the exclusive procedure for asserting a claim against this state or any
9 agency of this state arising in relation to any procurement conducted under
10 this chapter.

11 Sec. 6. Savings clause

12 Title 12, chapter 21, Arizona Revised Statutes, as added by this act,
13 does not affect an action or proceeding commenced or a right accrued before
14 January 1, 2009. Subject to section 12-3003, Arizona Revised Statutes, as
15 added by this act, an arbitration agreement made before January 1, 2009 is
16 governed by title 12, chapter 9, article 1, Arizona Revised Statutes.

17 Sec. 7. Effective date

18 Sections 10-1806, 12-2101.01 and 41-2615, Arizona Revised Statutes, as
19 amended by this act, and title 12, chapter 21, Arizona Revised Statutes, as
20 added by this act, are effective from and after December 31, 2008."

21 Amend title to conform

and, as so amended, it do pass

KIRK ADAMS
Chairman

1233-se-gov
4/8/08
H:jjb